

Element 2 — **Notice and Communication of Nondiscrimination and Equal Opportunity Policies**
(29 C.F.R. § 38.29 through 38.36)

PART A

WIOA and WIA Title I-funded recipients must provide initial and continuous notice that they do not discriminate on any prohibited ground. They must establish procedures to notify registrants, applicants and eligible applicants/registrants for programs or services, applicants for employment, new and existing employees, unions or professional organizations that hold collective bargaining agreements with the recipients, sub-recipients that receive WIOA Title I-funds from the recipients, and members of the general public, including those with disabilities. These procedures shall describe how recipients will provide staff and customers information about the right to file complaints of discrimination, and instructions for doing so.

Each workforce agency has its own data collection. Data on participants and applicants to system services is collected on an annual basis for analysis by the State and local level Equal Opportunity (EO) Officers.

1. Notice to Applicants for Service

A notice (Exhibit A) is provided to applicants for service, who are required to sign and certify that they have read, understood, and received a copy of the notice. The signed notice is filed in the participant's folder or filed as appropriately for others that are not participants.

2. Notice Dissemination

All persons receive notice and have access to all policy letters that are posted on all office bulletin boards, available on agency websites, and are available upon request at any time.

WIOA Title-I funded recipients must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others and that the Equal Opportunity notice is provided in appropriate languages to ensure meaningful access for Limited English Proficiency (LEP) individuals.

While each Local Area shall provide training to new employees on a regular basis, in order to communicate the policy of nondiscrimination and equal opportunity, the State EO Officer may also coordinate with local level EO Officers, when feasible, joint workshop sessions.

3. Recipients' Obligations to Publish Equal Opportunity Notice

All recipients of the WIOA Title I program, One-Stop Centers, and DLIR Offices must give notice to applicants and employees of their Equal Opportunity rights with the Equal Opportunity Notice/Poster (Exhibit B) as required by 29 C.F.R. § 38.29 to § 38.36. At a minimum, this poster must be:

- A. Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient's Web site pages;
- B. Disseminated in internal memoranda and other written or electronic communications with staff;

Element 2 — **Notice and Communication of Nondiscrimination and Equal Opportunity Policies**
(29 C.F.R. § 38.29 through 38.36)

- C. Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available; and
- D. Provided to each participant and employee; the notice must be made part of each employee's and participant's file. It must be a part of both paper and electronic files, if both are maintained.

This notice must be provided in appropriate formats for registrants, applicants, eligible applicants/registrants, applicants for employment and employees and participants with visual impairments. Where notice has been given in an alternate format to a participant with a visual impairment, a record that such notice has been given must be made a part of the participant's file.

The notice must also be provided to participants in appropriate languages other than English as required in 29 C.F.R. § 38.35.

In addition, in all locations where recipients provide services funded by the WIOA, notice of the identity of the State EO Officer and the local level EO Officers (Exhibit B) must be posted. The Notice shall contain the following information:

State EO Officer/Local Level EO Officer
Address
Email
Phone and TDD/TTY number

In accordance with 29 C.F.R. § 38.30, the following language shall be made available to all applicants' initial application for services and will be part of the applicant's file. Where participant records are maintained electronically, a data field in the initializing screen for a participant's record shall record that a paper copy of the notice has been provided to the participant. Alternative formats for the required language will be available upon request. Compliance with the provision of alternative formats will be monitored in accordance with the procedures described in Element 7.

EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of Federal assistance to discriminate on the following bases:

Against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, child birth or related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized

Element 2 — Notice and Communication of Nondiscrimination and Equal Opportunity Policies
(29 C.F.R. § 38.29 through 38.36)

to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity;

providing opportunities in, or treating any person with regard to, such a program or activity; or

making employment decisions in the administration of, or in connection with, such a program or activity.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or

the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

4. Other Means of Notification

Recipients will disseminate notice of non-discrimination and equal opportunity initially, by all media (brochures, flyers, websites, press releases, news stories, etc.) in the manner prescribed in 29 C.F.R. §38.34. Recruitment and other public materials shall contain the following statements:

Element 2 — **Notice and Communication of Nondiscrimination and Equal Opportunity Policies**
(29 C.F.R. § 38.29 through 38.36)

"Equal Opportunity Employer/Program;" and, "Auxiliary aids and services are available upon request to individuals with disabilities,"

Along with a TDD/TTY number (29 C.F.R. § 38.9(c)) (Exhibits C1-C3).

The following policies help ensure that all individuals with disabilities have communication access to programs, services, or activities of the State of Hawaii which are equally effective as that provided to individuals without disabilities:

- DHRD Policy No. 601.002 – Reasonable Accommodations for Employees and Applicants with Disabilities (Exhibit D)
- DHRD Policy No. 601.002 Discrimination/Harassment-Free Workplace Policy (Exhibit E)
- Governor's Administrative Directive No. 13-1 Equal Employment Opportunity Program (Exhibit F)
- Governor's Administrative Directive No. 12-6 Accessibility to State Government by Persons with Disabilities (Exhibit G)
- Comptroller's Memorandum 2010-28 Policy Guidance on Website Accessibility (Exhibit H)
- Disability and Communication Access Board Americans with Disabilities Act (ADA) Curriculum for State and County Entities (Exhibit I)
- DLIR Addendum to State of Hawaii Department of Human Resources Development Discrimination/Harassment-Free Workplace Policy (Exhibit J)

Recipients have been instructed, in State of Hawaii WIOA Bulletin No. 12-16, of their responsibilities regarding Equal Opportunity notifications and the local area complaint procedures (Exhibit K). Confirmation that One-Stop Centers are in compliance with these requirements will also be verified during annual self- evaluations and on-site reviews.

Training of local level EO Officers on notification policies shall be conducted at least once every year utilizing various modes of training and communication. Training will cover in depth information on specific topics under the MOA such as the establishment and dissemination of brochures and other materials containing tag lines.

5. Communication of Notice in Orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted program or activity, in person or over the Internet or using other technology, a recipient must include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA and this part, including the right to file a complaint of discrimination with the recipient or the Director. This information must be communicated in appropriate languages as required in 29 C.F.R § 38.35 and in formats accessible for individuals with disabilities as required in this part and specified in 29. C.F.R. § 38.9.

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(29 C.F.R. § 38.29 through 38.36)

6. Communication with Persons with Limited English Proficiency (LEP)

Hawaii Revised Statutes, Chapter 321C, Language Access Law

Most individuals living in Hawaii read, write, speak, and understand English. There are many individuals, however, who are limited English proficient. Language for limited English proficient persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by state-funded programs and activities.

The purpose of this part is to affirmatively address, on account of national origin, the language access needs of limited English proficient persons. In providing the delivery of language access services, it has been the intent of the legislature that those services, be guided by Executive Order 13166 and succeeding provisions of the federal law, regulation, or guidance.

Chapter 321C, Hawaii Revised Statutes, requires every state agency, or any organization receiving state funding that provides services to the public on behalf of the state to take reasonable steps to ensure meaningful access to programs, activities, or services by limited English proficient persons.

The Department of Labor and Industrial Relations has developed the Limited English Proficiency Plan (See Exhibit L) so its divisions, offices and related WIOA Title I-funded recipient programs may use as guidance to fulfill the requirements of providing meaningful access to LEP persons.

All program information shall be available in alternative formats upon request from individuals with disabilities, or in languages other than English, within the bounds established for reasonable accommodation. If providing reasonable modification or accommodation would result in undue hardship or fundamentally alter the program or activity, the recipient must notify the State EO Officer and beneficiary in writing of the reasons for refusing to provide accommodation/modification.

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY: Dial 711 then ask for (808) 586-8866

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(29 C.F.R. § 38.29 through 38.36)

PART B

Supporting Documentation

- Exhibit A Certification of Acknowledgement for Non-Discrimination and Equal Opportunity Notice
- Exhibit B "Equal Opportunity is the Law" Poster
- Exhibit C Other Means of Notification Samples
 - C-1 DLIR Press Release Sample
 - C2 DLIR Director's Memo Template
 - C3 Snapshot of Notice Appearing on all DLIR Web pages
- Exhibit D DHRD Policy No. 601.002 – Reasonable Accommodations for Employees and Applicants with Disabilities
- Exhibit E DHRD Policy No. 601.001 Discrimination/Harassment-Free Workplace Policy
- Exhibit F Governor's Administrative Directive No. 13-1 Equal Employment Opportunity Program
- Exhibit G Governor's Administrative Directive No. 12-6 Accessibility to State Government by Persons with Disabilities
- Exhibit H Comptroller's Memorandum 2010-28 Policy Guidance on Website Accessibility
- Exhibit I Disability and Communication Access Board Americans with Disabilities Act (ADA) Curriculum for State and County Entities
- Exhibit J DLIR Addendum to State of Hawaii Department of Human Resources Development Discrimination/Harassment-Free Workplace Policy
- Exhibit K State of Hawaii WIOA Bulletin No. 1-16
- Exhibit L Department of Labor and Industrial Relations Language Access Plan